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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,113	10/22/2001	Mark W. Paulsen	P02248US2	5983

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SUITE 3200  
DES MOINES, IA 50309-2721

EXAMINER

PETRAVICK, MEREDITH C

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 05/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/037,113

Applicant(s)

PAULSEN, MARK W.

Examiner

Meredith C Petravick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 19 on page 10, line 16; 100 on page 16, line 22. Correction is required.

### ***Specification***

2. The abstract of the disclosure is objected to because of the use of legal phraseology in the term "and/or" in line 6. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities:

- On page 12, line 25, the "tubes" are numbered "70" in the specification but are numbered "70A-70D" in the drawings.
- On page 17, line 12, the "plates" are numbered "109" in the specification but are numbered "111 and 109" in the drawings.
- On page 19, line 2, the pivot pin is numbered "100" but should be "110."

Appropriate correction is required.

***Claim Objections***

3. Claims 25-28 are objected to because of the following informalities:

In claim 25, line 3, the word "with" should be "width."

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 contains a double positive recitation of the limitation "a large baler" in line 6. Claim 2 contains a double positive recitation of the limitation "front" and "rear" in line 2. Claim 5 contains double positive recitations of the limitations "a hitch" and "a large bale baler" in line 2. Claim 7 contains a double positive recitation of the limitation "frame pieces" in line 2. Claim 23 contains a double positive recitation of the limitation "a rake wheel" in lines 2-3. Claim 24 contains a double positive recitation of the limitation "a baler" in line 2. Claim 25 contains a double positive recitation of the limitation "a large bale baler" in line 3. Claim 28 contains a double positive recitation of the limitation "a tractor" in line 1.

Claims 16-17 recite the limitation "the raking width" in lines 3 and 1. Claim 20 recites the limitation "each arm" in line 2. Claim 21 recites the limitations "the rake wheels," "the arms," and "the rake means." Claim 2-23 recites the limitation "the rake wheels" in lines 2-3.

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Claim 24 recites the limitations "the frame work" and "the rake wheels" in lines 3 and 4. There is insufficient antecedent basis for these limitations in the claims.

Regarding claims 20-23, the word "means" is preceded by the word(s) "rake" and "pivot" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim 29 is indefinite because the phrase "from substantially wider" is unclear as to what element is substantially wider than the pick-up width.

Claim 30 is indefinite because the phrase "substantially wider means" is unclear.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5, 16-17, 20, 25 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis.

Lewis discloses a rake attachment (Fig. 1), substantially wider than the pick-up width of a baler (Fig. 1), attached between a baler (23) in the rear and a tractor (30) in the front by means of an extension frame (60) including a hitch (65, Column 4, line 27-29) on the front, a connection to the baler on the rear (Column 4, lines 24-27), a passage (Column 4, lines 63-68) for a PTO shaft (6), arms (36, 37) for carrying rakes that can be raised or lowered (Column 5, lines 7-9). The rake attachment rakes and bails in a single pass through a field (Column 8, lines 42-45).

8. Claims 1-5, 16-17, 20, 25 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Luhn et al.

Luhn et al. discloses a rake attachment (10), substantially wider than the pick-up width of a baler (11), attached between a baler (11) in the rear and a tractor (12) in the front by means of an extension frame (24) including a hitch (66) on the front, a connection to the baler on the rear (67), a passage for a PTO shaft (68), arms (44, 45) for carrying rakes that can be raised or lowered. The rake attachment rakes and bails in a single pass through a field.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Kelderman.

Lewis discloses the claimed device except for using bolts on the rear connection member in order to secure the baler to the rake attachment.

Kelderman discloses that it is known in the art to use bolts (67) to secure two items together (Column 5, line 28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to connect the frame to the baler in Lewis with bolts as in Kelderman, in order to secure the frame to the baler.

11. Claims 8-9, 13-15, 18-19, and 22-24 rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Sligter.

Lewis discloses the claimed device except for the rakes being overlapping wheel rakes that are attached to a beam that is pivotally attached to the frame so that the rake can stay in contact with the ground while traveling over uneven terrain.

Sligter discloses that it is known in the art to use overlapping wheel rakes (fig.2) attached to a beam (18) that is pivotally attached to a frame (1) so that the rake wheels (30) can match ground irregularities (abstract, lines 18-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rake attachment of Lewis with the rake wheels on a pivoting beam of Sligter, in order to facilitate the rake following the contours of the ground.

12. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis.

Lewis discloses the claimed device except for the angle of the rake arms to the frame being between 20-60 degrees, 35-50 degrees, and 45 degrees. The angle of the rake arms to the frame is a design choice that depends on the width of the material being raked.

13. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Sligter and Kuehn.

Lewis discloses the claimed device except for mounting means that allow the rake wheels to adjust the width of the rake means and the height of the rake wheels according to the operating conditions.

Sligter discloses that it is known in the art to provide means to adjust the width of the rakes along a beam (column 1, lines 49-53). Kuehn discloses that it is known in the art to provide means to adjust the height of the wheel rake (column 3, lines 24-26).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the rake attachment of Lewis with the means for adjusting the width and height of the rake wheel as discloses in Sligter, in order to adjust the rake for varying operating conditions .

14. Claims 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis in view of Trenkamp et al.

Lewis discloses the claimed device except for a shredder being attached to the baler.

Trenkamp et al. discloses that it is known in the art to attach a shredder (10) to the front of a baler in order to process crops in one pass (abstract, lines 16-19).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the baler of Lewis with the shredder attachment of Trenkamp et al., in order to further process the crops in a single pass on the field.

### ***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is (703) 305-0047. The examiner can normally be reached on Monday - Thursday from 7 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached at (703) 308-3870.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 305 -1113. The fax number for this Group is (703) 305-3597.



**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group Art Unit 3671**

MCP  
May 23, 2002